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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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10 SIGMA DYNAMICS, INC.,

No. C-05-1852 MJJ

11 Plaintiff,

**ORDER DENYING TEMPORARY  
RESTRAINING ORDER**

12 v.

13 E.PIPHANY, INC.,

14 Defendant.  
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17 Before the Court is Plaintiff Sigma Dynamics' ("Plaintiff") motion for a temporary  
18 restraining order. Plaintiff seeks to enjoin Defendant Epiphany, Inc. ("Defendant") from  
19 disseminating false or misleading statements regarding the status of the state court trade secret case  
20 pending between Plaintiff and Defendant to any third party.

21 Courts apply one of two standards to determine whether a preliminary injunction should  
22 issue. To meet the "traditional" test, the movant must establish: (1) a strong likelihood of success on  
23 the merits; (2) that the balance of irreparable harm favors its case; and (3) that the public interest  
24 favors granting the injunction. *Am. Motorcyclist Ass'n v. Watt*, 714 F.2d 962, 965 (9th Cir. 1983).  
25 To prevail under the "alternate" test, the movant must demonstrate either a combination of probable  
26 success on the merits and the possibility of irreparable injury, or that serious questions are raised and  
27 that the balance of hardships tips sharply in its favor. *Id.*; see also *Diamontiney v. Borg*, 918 F.2d  
28 793, 795 (9th Cir. 1990).

Having thoroughly read and considered the papers submitted by the parties, the Court finds

1 that Plaintiff has not established a strong likelihood of success on the merits of its claims.  
2 Moreover, Plaintiff has not adequately established that it will suffer irreparable injury if the  
3 preliminary injunction does not issue. Accordingly, Plaintiff's motion of a temporary restraining  
4 order is **DENIED**.

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6 **IT IS SO ORDERED.**

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8 Dated: May\_\_6\_\_, 2005



9 /s/  
10 MARTIN J. JENKINS  
11 UNITED STATES DISTRICT JUDGE  
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